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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/289,168	04/09/99	SAIDA	K 4041J000216

EXAMINER

QM02/0818

HARNESS DICKEY & PIERCE
P O BOX 828
BLOOMFIELD HILLS MI 48303

FORD, J

ART UNIT	PAPER NUMBER
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3743

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DATE MAILED 08/18/99

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 13 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-17 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

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A copy of JP-A-9-123,748 discussed on page 1 of the specification is required in response to this action. Copies of search reports, PCT forms 408 and/or 409 in English are required as well. There is no significant burden on Denso to provide these.

The drawings are objected to because Figs. 6A and 6B must be legended PRIOR ART. Correction is required.

Applicant is required to submit a proposed drawing correction in response to this Office action. However, formal correction of the noted defect(s) can be deferred until the application is allowed by the examiner.

Applicants^{are} claiming that this application is a continuation of PCT/JP98/03586 (filed 8-10-98). Apparently this case is entering the national stage via 35 U.S.C. 111 (not 35 U.S.C. 371), is that correct? MPEP 1895 states that the examiner may require proof that the international application was copending with the US national application examined here. Please provide this proof now. As well the examiner requires a copy of the ^{request}~~requires~~ form in the international application or the cover page of the published international application. Please provide this in response to this action. All search reports and prior art obtained in the PCT or any national stage prosecution of all applications stemming from the PCT ^{or}~~art~~ the priority document is required now.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shirota et al. '107 or Ito et al. '368 or JP-A-9-123,748 (forthcoming from applicants) ⁱⁿ view of JA-A-10-244,820 or JA-A-8-295,128 or Hermann (Fig. 6) or Becquerel.

Shirota and Ito are both assigned to Denso Corp and show what appears to be what is described in the beginning of applicants' specification to be the substance of JP-A-9-123,748. Applicants' Figures 6A and 6B appear to show this prior art as well although it is unclear (as currently written) exactly what the prior art is.

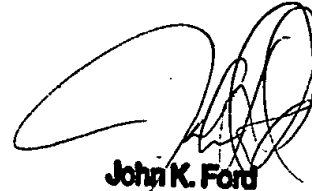
Both JA '820 and JA '128 teach orienting tubes in the manner claimed. So does Fig. 6 of Hermann. To have oriented the tubes in Shirota, Ito or JP '748 in the manner taught by JA '820 or JA '128 would have been obvious to permit condensate drainage and whatever other reasons are disclosed in JA '128 and JA '820 which are not known at this time because translations of these latter two documents have not been provided. Similarly, Hermann teaches a fan in supply duct 30 as does Becquerel et al. feeding across the face of the evaporator, an obvious modification to have made for the reasons given above.

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Any inquiry concerning this communication should be directed to John Ford at telephone number (703) 308-2636.



John K. Ford
Primary Examiner

J. FORD:LM
AUGUST 02, 1999
(703) 308-0000